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GENERAL NOTICE

NOTICE 2213 OF 2004**INDEPENDENT COMMUNICATIONS AUTHORITY OF SOUTH AFRICA
NOTICE OF INTENTION TO MAKE REGULATIONS FOR THE
IMPLEMENTATION OF NUMBER PORTABILITY**

Pursuant to the notice that the Independent Communications Authority of South Africa ("the Authority") published on 04 June 2004 and the public hearings that were held thereafter, the Authority hereby gives notice inviting written comments on the revised draft Number Portability Regulations.

On 08 and 09 September 2004, the Authority conducted public hearings on the draft Number Portability Regulations. Emanating from the public hearings, the Authority revised draft number portability regulations.

Interested persons are hereby invited to submit written comments or written representations with regard to the revised draft regulations, to be received **by no later than 16h00 on the 27 October 2004** by post, hand delivery or facsimile transmission for the attention of Ms Nomvuyiso Batyi, Independent Communications Authority of South Africa, Private Bag X10002, Sandton, Block A, Pin Mill Farm, 164 Katherine Street, Sandton 2146; Facsimile (011) 321 8536, telephone (011) 321 8415 or e-mail: nbatyi@icasa.org.za

**IT SHOULD BE NOTED THAT NO PUBLIC HEARINGS WILL BE HELD ON
THE REVISED DRAFT NUMBER PORTABILITY REGULATIONS.**

**MANDLA LANGA
CHAIRPERSON
ICASA**

SCHEDULE

1. Definitions

In these regulations any expression or word to which a meaning has been assigned by the Telecommunications Act, 1996 (Act No 103 of 1996), as amended, (hereinafter referred to as "the Act"), shall have the same meaning in these regulations, unless the context otherwise indicates –

'Block Operator' means a network operator that has been allocated a number block that is subject to number portability.

'Block Service Provider' means a Service Provider that has been allocated a number block that is subject to number portability.

'Donor Operator' means a network operator that is ceasing to serve a number that is being ported.

'Donor Service Provider' means a Service Provider that is ceasing to serve a number that is being ported.

'Functional Specification' means a regulation determining the rules applicable to operators and service provider for the implementation, management and performance of number portability.

'Geographic Number' means a number that is part of a block that has been allocated for use in a specified geographic area.

'Recipient Operator' means a network operator that is starting to serve or is continuing to serve a number that is being or has been ported.

'Recipient Service Provider' means a Service Provider that is starting to serve or is continuing to serve a number that is being or has been ported.

'Service Provider' means an entity that sells to a Subscriber the ability to make and receive telephone calls. A Service Provider may also be a network operator or may buy network services from a network operator and resell these services to its Subscribers.

'Subscriber' means any person or entity that is a party to a contract or other similar arrangement that is in force with a Service Provider or network operator for the supply of telecommunications services. The term includes in addition any caller who makes or clears or receives calls that are the subject of such a contract or arrangement. In the case of mobile services, pre-pay customers are regarded for the purposes of this regulation as Subscribers.

'Winback' means a Donor Network Operator or Donor Service Provider contacting Subscribers to offer discounts, free services or other inducements in order to convince those Subscribers not to change operators or to revert back to their original operator in the first 2 months after requesting Number Portability. Offers made to the generality of Subscribers that do not refer to number portability or the individual subscriber's current or past services are not included in the definition of Winback.

2. Requirements to provide Geographic Number block portability

- 2.1 All network operators who terminate calls to Subscribers who are identified by Geographic Numbers and are connected directly to their network shall offer Number Portability to Subscribers who have been assigned more than ten different numbers within the same block of 10,000 contiguous numbers provided that:
- (a) no numbers within the same block are assigned to other Subscribers
 - (b) the network termination points remain at locations that conform to the geographic boundaries associated with the number block by the Authority.
- 2.2 All operators who are required by section 2.1 to offer Geographic Number Portability shall cooperate together to provide such portability as soon as possible and no later than two months after the launch of the first services using geographic numbers in competition with Telkom
- 2.3 All network operators who terminate calls to Subscribers who are identified by Geographic Numbers and are connected directly to their network shall offer Number Portability to Subscribers who have been assigned more than ten different numbers within the same block of 1,000 contiguous numbers provided that:
- (a) no numbers within the same block are assigned to other Subscribers
 - (b) the network termination points remain at locations that conform to the geographic boundaries associated with the number block by the Authority.
- 2.4 All operators who are required by sub regulation 2.1 to offer Geographic Number Portability shall cooperate together to provide such portability as soon as possible and no later than four months after the launch of the first services using geographic numbers in competition with Telkom
- 2.5 The implementation of Geographic Number block portability shall conform to a Functional Specification to be developed and maintained by the Authority in consultation with the Operators, Service Providers and other interested parties including users. The Authority shall publish and enforce the functional specification.

3. Requirements to provide geographic individual Number Portability

- 3.1 All network operators who terminate calls to Subscribers who are identified by Geographic Numbers and are connected directly to their network shall on request from another such operator provide the capability for Subscribers to have Number Portability when transferring to the said other operator provided that the network termination point(s) remain at a location or locations that conform to the geographic boundaries associated with the number block as determined by the Authority.
- 3.2 The capability to provide Number Portability described in section 3.1 shall be made available within 12 months of receiving the request
- 3.3 The implementation of geographic portability shall conform to a functional specification to be developed and maintained by the Authority in consultation with the Operators and other interested parties including user organisations. The Authority shall publish and enforce the functional specification.
- 3.4 The ordering system for handling orders for geographic individual Number Portability and effecting these orders in cooperation with other operators shall conform to an Ordering System Specification to be prepared by all network operators and other interested parties including user organisations.
- 3.5 Each network operator whose Subscribers have ported their numbers from another operator shall maintain and make available themselves or via a third party via the Internet free of charge a list of the ported numbers of their Subscribers. This list shall be updated at least once per day.

4. Requirements to provide mobile Number Portability

- 4.1 All mobile Network Operators shall work together to offer Number Portability to their Subscribers as soon as reasonably possible and no later than 31 December 2005. Where mobile network operators provide services via service providers the mobile operators shall secure the cooperation of the service providers in the provision of Number Portability via their contractual relationships with them.

- 4.2 The implementation of mobile Number Portability shall conform to a Functional Specification to be developed and maintained by the Authority in consultation with the mobile network operators, mobile Service Providers and other interested parties including user organisations. The Authority shall publish and enforce the functional specification.
- 4.3 The ordering system for handling orders for mobile Number Portability and effecting these orders in cooperation with other operators and Service Providers shall conform to an Ordering System Specification to be prepared by all network operators, Service Providers and other interested parties including user organisations.
- 4.4 Each mobile network operator whose Subscribers have ported their numbers from another operator shall maintain and make available themselves or via a third party via the Internet free of charge a list of the ported numbers of their Subscribers. This list shall be updated at least once per day.
- 4.5 Mobile Network Operators shall not discriminate with respect to service providers in any aspect of the implementation of number portability including charging between and offering incentives to independent service providers and service providers that they own in whole or in part.

5 Routing

- 5.1 Each operator who originates a call to a ported number or who handles a call from outside South Africa to a ported number inside South Africa shall be responsible for ensuring that the call will be routed directly or indirectly to the operator that serves the called number.
- 5.2 Each block operator shall ensure that any calls and where practicable other communications to ported numbers within number blocks allocated to that operator shall be routed to the network that currently serves the called number and that any value of the original CLI shall be unchanged by the re-routing process.
- 5.3 Telkom shall offer to all other network operators a service whereby it will route calls directly or indirectly to ported numbers.

6 Cost recovery and charging

- 6.1 Each operator that is required to provide Number Portability shall bear its own set-up costs and all originating operators shall bear any set-up costs that are incurred as a result of sub regulation 5.1
- 6.2 The Recipient Operator shall pay the Donor Operator their reasonable per-customer costs necessarily incurred when a customer ports their number successfully, including costs incurred by the Donor Service Provider and reimbursed by the Donor Operator. No payments shall be made for unsuccessful portings. Since there is no competition in releasing ported numbers where the per-customer costs exceed two hundred Rand for the porting of a single number, the Donor Operator shall charge only two hundred Rand until it has justified a higher charge to the satisfaction of the Authority.
- 6.3 The Donor Operator shall not charge the Subscriber when the Subscriber ports their number and shall ensure that the Donor Service Provider does not charge the Subscriber when the Subscriber ports their number.
- 6.4 For the avoidance of doubt, this Regulation does not prohibit the Recipient Service Provider or Recipient Operator from charging the customer for successful portings.
- 6.5 Each operator whose retail prices are controlled by regulation may apply to the Authority to have the reasonable set-up costs of Number Portability and any incremental costs incurred in performing tasks that derive from sub regulation 4.1 into account in the next revision of their price control.
- 6.6 Each operator that is required by sub regulations 5.2 or 5.3 to incur additional costs in routing calls or other communications to ported numbers may charge the operator from which they receive the calls or other communications for those additional costs. Such additional charges may be applied to each call or other communication individually or averaged over all the calls or other communications from the said operator. Where the operator that is subject to the requirements of sub regulations 5.2 or 5.3 has their interconnection charges controlled by regulation, the said operator may apply to the Authority to have the reasonable incremental costs necessarily incurred taken into account in the next revision of their price control.

7. Service and other requirements

- 7.1 The Recipient Operator shall not order Number Portability for any Subscriber unless it has received a request from the said Subscriber and shall ensure that the Recipient Service Provider does not order Number Portability for any Subscriber unless it has received a request from the said Subscriber.
- 7.2 The Donor Operator shall not engage in Winback and shall ensure that the Donor Service Provider does not engage in Winback. Operators shall not make offers to subscribers with ported numbers that are not also made to subscribers without ported numbers and shall ensure that the Service Providers do not make offers to subscribers with ported numbers that are not also made to subscribers without ported numbers.
- 7.3 To ensure adequate tariff transparency for callers, where as a result of number portability the termination rate charged for a call to a ported number is more than 10% higher than the termination rate charged by the operator allocated the number block that contains the ported number, the terminating operator shall apply a warning to be agreed with the Authority before connecting the call and shall not charge for the period during which the warning is applied.
- 7.4 To ensure adequate tariff transparency for callers from networks where on-net discounts are offered the following shall apply. Where as a result of number portability the retail rate charged for a call to a ported number is more than 10% higher than the retail rate for a call to an unported number in the number block that contains the ported number, the originating operator shall apply a warning before connecting the call. The form of the warning shall be agreed with the Authority and the originating operator shall not charge for the period during which the warning is applied. Operators who import numbers shall include in their tariff information an explicit statement about whether or not these numbers qualify for on-net discounts.
- 7.5 All Donor Operators shall report to the Authority their performance and that of their Donor Service Providers against a list of quality of service parameters identified and published by the Authority. This shall specify the frequency of reporting.

- 7.6 All Operators shall comply with a Code of Practice to be published and enforced by the Authority after consultation with the operators. This Code of Practice will *inter alia*, relate to marketing and sales practices and communications with Subscribers who request Number Portability. All Operators shall ensure that their Service Providers also comply with this Code of Practice.
- 7.7 Except where otherwise indicated, disputes between operators relating to Number Portability shall be handled in accordance with the dispute procedures applicable to interconnection agreements. Disputes involving service providers may be referred directly to the Authority who may publish a procedure for handling them.
- 7.8 The terms and application of these Regulations may be reviewed periodically as may be determined by the Authority but not later than two years after promulgation.
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